

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

Register in Chancery
Kent County
38 The Green, Ste. 208
Dover, DE 19901
302-735-1930

Register in Chancery
New Castle County
500 N. King Street, Ste. 11600
Wilmington, DE 19801
302-255-0544

Register in Chancery
Sussex County
34 The Circle
Georgetown, DE 19947
302-856-5775

Procedures for Selling Real Estate

Pursuant to 12 Del. C. § 3951 and Chancery Rule 113, Court approval is required any time a guardian wishes to sell real estate that is titled in a disabled person's or minor's name. There are three steps the guardian must take in order to sell real estate.

Step 1: Motion to Appoint Appraiser

- The guardian(s) must file the completed Motion to Appoint an Appraiser.
- The guardian(s) must sign the Motion to Appoint an Appraiser and have his/her/their signature(s) notarized.
- The guardian(s) must send a copy of the Motion to Appoint an Appraiser to interested parties (individuals that were identified in the initial guardianship petition) and file an affidavit of service.
- There is a \$2.00 per page scan fee.
- The Court will appoint an independent appraiser who is typically given thirty days to file the appraisal.
 - Once the appraiser is appointed he/she will contact the guardian(s) to schedule a convenient time for the property to be appraised.
 - Once the appraisal is completed, the Court expects the property to be sold for the appraised value (or higher).
 - The guardian is to pay the appraiser's fee within fifteen days of receiving the completed appraisal.

Step 2: Petition to Sell Real Estate

- Once an acceptable offer is received on the property, the guardian(s) must file the completed Petition to Sell Real Estate.
- The guardian(s) must sign the petition and have his/her/their signature(s) notarized.
- A copy of the appraisal and sales agreement must be attached to the petition.

- If the offer on the property is for less than the appraised value, the guardian(s) must file in conjunction with the petition an Affidavit to Sell Real Estate for Less than the Appraised Value.
- The guardian(s) must send a notice along with a complete copy of the Petition to Sell Real Estate to the interested parties listed in the initial guardianship petition. The guardian(s) will have to file a copy of the notice and an affidavit of service with the Register in Chancery. If the disabled person has been approved for Medicaid or received Medicaid benefits at the time the initial guardianship petition was filed, notice must also be sent to the Attorney General's Office (Attn: Paige Schmittinger, Esquire, Department of Justice, Carvel State Building, 820 N. French Street, Wilmington, DE 19801).
- Per Court of Chancery Rule 3, there is a \$50.00 filing fee in addition to the \$2.00 per page scan fee. Payment must be received at the time of filing, or the petition will not be accepted by our office. We accept cash, check or money order (made payable to the "Register in Chancery").

Step 3: Return of Sale

- Within thirty days of the final settlement the guardian(s) must file a Return of Sale to show the house was sold pursuant to the approved Court Order.
- A copy of the Settlement Statement (HUD-1) must be attached.
- A copy of the guardianship bank account statement must be filed to show the proceeds of the sale were deposited into the guardianship account.
- There is a \$2.00 per page scan fee.
- The guardian(s) must send a copy of the Return of Sale to the interested parties and file an affidavit of service.

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____, :
: C.M. # _____
:
A minor/disabled person :

MOTION TO APPOINT AN APPRAISER

The guardian(s) hereby move(s) for the appointment of an appraiser pursuant to 12 Del. C. § 3951(c) and in support of said motion states the following:

1. _____ [Name of Guardians]
was/were appointed guardian(s) of _____
[Name of disabled person or minor] by Order of this Court dated _____.

2. The disabled person owns the real property located at _____

_____[Complete Address of Property],
Tax Parcel Number _____.

3. It is necessary to sell the property for the following reason(s): _____

_____.

4. The guardian(s) respectfully request(s) that the Court appoint a qualified appraiser to appraise the property so that the guardian(s) may list it for sale.

5. The guardian(s) understand(s) the appraiser's fee must be paid within fifteen days of receiving the completed appraisal.

WHEREFORE, guardian(s) respectfully request(s) that the Court appoint an appraiser pursuant to 12 Del. C. § 3951(c).

Guardian's signature

Co-Guardian's signature

Address

Address

Phone number

Phone number

SWORN TO AND SUBSCRIBED before me, a notary/clerk of the Court on the _____ day of _____, 20____.

Notary Public/Chancery Court Clerk

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____, :
: C.M. # _____
:
A minor/disabled person :

AFFIDAVIT OF MAILING

I/We hereby certify that on _____, 20_____, I/we did send, via U.S. Mail, a copy of the Motion to Appoint an Appraiser to the following interested parties:

Name	Address

Guardian's signature

Co-Guardian's signature

SWORN TO AND SUBSCRIBED before me, a notary/clerk of the Court on this _____ day of _____, 20_____.

Notary Public/Chancery Court Clerk

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____, :
: C.M. # _____
:
A minor/disabled person :

ORDER TO APPOINT AN APPRAISER

WHEREAS, the Motion to Appoint an Appraiser having been considered by the Court,

IT IS HEREBY ORDERED this _____ day of _____, 20____ as follows:

1. _____ is appointed appraiser under 12 Del. C. § 3951(c) for the property located at _____

[Property Address], Tax Parcel Number _____.

2. The appraiser shall provide to the Court an appraisal of the subject property on or before _____ with his/her affidavit.

3. The guardian(s) shall pay the appraisal fee from the guardianship account within fifteen days of receiving the appraisal and file proof of payment with the Register in Chancery's Office. If the disabled person does not have any available funds in the guardianship account, the attorney or pro se guardian shall

notify the Register in Chancery's Office in writing within ten days of receiving the appraisal.

Vice Chancellor/Master in Chancery

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____, C.M. # _____

A minor/disabled person

PETITION TO SELL REAL ESTATE

The guardian(s) respectfully represent(s) to the Court as follows:

1. _____ [Name of guardian(s)],
was/were appointed guardian(s) of the property of _____ [Name of
disabled person/minor] by Order of this Court on _____.

2. The disabled person/minor is the owner/partial owner of real estate
located at _____
_____ [Complete Address of Property],
Tax Parcel Number _____.

3. It is necessary to sell the property for the following reason(s): _____

4. Guardian(s), in his/her/their capacity as guardian(s) has/have entered into
an Agreement of Sale, subject to the approval of this Court, to sell the aforesaid
property to _____ [Name of
purchaser], for the sum of \$_____ [Purchase Price] and to contribute

\$_____ toward the purchaser's closing costs. A copy of the Agreement of Sale is attached as Exhibit "A".

5. Per Order of this Court, guardian(s) has/have obtained an appraisal of the real property from _____ [Name of appraiser] dated _____ [Date of appraisal] which estimates the value of the property to be \$_____ [Appraised value]. A copy of said appraisal is attached hereto as Exhibit "B".

6. Guardian(s) is/are of the opinion that it is in the best interest of the disabled person/minor that the real property be sold in accordance with the Agreement of Sale attached hereto as Exhibit "A".

WHEREFORE, guardian(s) respectfully request(s) that the Court enter an Order approving the sale of the aforesaid real estate.

Guardian's signature

Co-Guardian's signature (If Applicable)

Address

Address

Phone number

Phone number

SWORN TO AND SUBSCRIBED before me, a notary/clerk of the Court on the _____ day of _____, 20____.

Notary Public/Chancery Court Clerk

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____, C.M. # _____

A minor/disabled person

CONSENT

I, _____ [Name of interested party], do
hereby consent to the Petition to Sell Real Estate which is owned by the disabled
person/minor. I understand this petition is in reference to the property located at

_____ [Complete address of property to be sold]

Tax Parcel Number _____ and an offer has been
made on the property in the amount of \$_____ [offer price,
minus any settlement help].

Signature

Address: _____

SWORN TO AND SUBSCRIBED before me, a notary/clerk of the Court on
this _____ day of _____, 20_____.

Notary Public/Chancery Court Clerk

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

☐ Register in Chancery
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302-255-0544

☐ Register in Chancery
Sussex County
34 The Circle
Georgetown, DE 19947
302-856-5775

IN THE MATTER OF:

_____, :
A minor/disabled person : C.M. # _____
:

NOTICE OF PETITION TO SELL REAL ESTATE

Dear Interested Parties:

This is a notice that I am/we are petitioning to sell the real estate owned by
the minor/disabled person located at _____
_____[Complete address of property to be sold],
Tax Parcel Number _____, for the price of
_____ [offer price, minus any settlement help] to
_____ [Name of purchaser(s)].

If you object to the petition, you must immediately file a written objection
with the Register in Chancery's Office that has been marked above. If you do not
file a written objection within **twenty days** of the date of this notice any objections
will be deemed waived.

Guardian's Signature
Dated: _____

Co-Guardian's Signature

Notary Public/Chancery Court Clerk

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____, C.M. # _____

A minor/disabled person

**AFFIDAVIT TO PETITION TO SELL REAL ESTATE FOR LESS THAN
THE APPRAISED VALUE**

_____ [Name
of Guardian(s)], Guardian(s) of _____ [Name of
disabled person/minor], respectfully represent(s) to the Court as follows:

- 1) This is an Arms Length Transaction (i.e. the buyer and seller did not know each other prior to the sales agreement).
- 2) The property was put on the market on _____.
- 3) There have been _____ showings on the property.
- 4) There has/have been _____ offer(s) on the property.
- 5) The house was advertised and marketed using the following resources (i.e. yard sign, newspaper): _____

- 6) The house is/is not vacant.
- 7) The monthly carrying cost of the house is \$_____ which pays for

the following expenses (i.e. electric, etc.): _____

_____.

Guardian's signature

Co-Guardian's signature

SWORN TO AND SUBSCRIBED before me, a notary/clerk of the Court on this

_____ day of _____, 20_____.

Notary Public/Chancery Court Clerk

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____,
A minor/disabled person

:
:
:
:
:

C.M. # _____

ORDER TO SELL REAL ESTATE

WHEREAS, the guardian(s) petition to sell real estate located at _____, Tax Parcel Number _____, having been heard and considered by the Court,

IT IS ORDERED this _____ day of _____, 20____, as follows:

1. That the guardian(s) is/are authorized to sell the real estate that is owned by _____ a disabled person/minor, in accordance with the terms of the Agreement of Sale attached to the Petition herein as Exhibit A.

2. That the guardian(s) is/are authorized to pay from the proceeds of the sale the disabled person's/minor's share of Delaware transfer tax and all other reasonable and necessary costs incidental to the sale of the real estate, as well as to contribute \$_____ to the purchaser's closing costs as per said Agreement of Sale.

3. That the guardian shall make his Return of Sale to this Court within thirty days of the final settlement of the real estate.

Vice Chancellor/Master in Chancery

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____, :
: C.M. # _____
:
A minor/disabled person :

RETURN OF SALE

_____ [Name of guardian(s)],
guardian(s) of the property of _____

[Name of disabled person/minor], hereby make(s) the following Return of Sale:

1. The guardian(s) has/have sold to _____
_____ [Name of buyer(s) of property]
the property known as _____
_____ [Complete address of property],
Tax Parcel Number _____ pursuant to an Order of the Court
dated _____.

2. At settlement, the guardian(s) received net proceeds of \$_____,
said proceeds being the net amount remaining after payment of various settlement
costs. A copy of the Settlement Statement is attached hereto as Exhibit "A".

3. In the opinion of the guardian(s), the disbursements for the sale of the
property were reasonable and necessary to complete the transfer.

4. The proceeds of sale have now been deposited into the Court of Chancery

guardianship account , and the guardian(s) has/have otherwise complied with the provisions of the Order of this Court dated _____ [Date Order for Sale Was Signed]. A copy of the bank statement is attached hereto as Exhibit B.

WHEREFORE, the guardian(s) respectfully request(s) that the Court approve the Return of Sale.

Guardian's signature

Co-Guardian's signature

Address

Address

Phone number

Phone number

SWORN TO AND SUBSCRIBED before me, a notary/clerk of the Court on the _____ day of _____, 20____.

Notary Public/Chancery Court Clerk

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____, :
: C.M. # _____
:
A minor/disabled person :

AFFIDAVIT OF MAILING

I/We hereby certify that on _____, 20_____, I/we did
send, via U.S. Mail, a copy of the Return of Sale to the following interested parties:

Name	Address

Guardian's signature

Co-Guardian's signature

SWORN TO AND SUBSCRIBED before me, a notary/clerk of the Court on this
_____ day of _____, 20_____.

Notary Public/Chancery Court Clerk

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____, :
: C.M. # _____
: A minor/disabled person :
:

ORDER TO APPROVE RETURN OF SALE

WHEREAS, the Return of Sale having been heard and considered by the Court,

IT IS ORDERED this ____ day of _____, 20____ as follows:

1. That the sale of the disabled person's property located at _____
_____, Tax Parcel
Number _____ is hereby confirmed.

2. That the Return of the Guardian(s) as made is hereby approved.

Vice Chancellor/Master in Chancery